

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TESLA, INC.,
Petitioner,

v.

GRAPHITE CHARGING COMPANY, LLC,
Patent Owner

Case IPR2024-00388
U.S. Patent No. 8,291,243

**PATENT OWNER'S OBJECTIONS TO PETITIONER'S NEW EVIDENCE
PURSUANT TO 37 C.F.R. § 42.64(b)(1)**

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Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Under the Federal Rules of Evidence and 37 C.F.R. § 42.64, Patent Owner Graphite Charging Company, LLC ("Patent Owner") timely objects to evidence submitted by Tesla, Inc. ("Petitioner") in *Inter Partes* Review IPR2024-00388 on February 26, 2025. Patent Owner serves Petitioner with these objections to provide notice that Patent Owner may move to exclude the challenged exhibits under 37 C.F.R. § 42.64(c) unless Petitioner cures the defects associated with the challenged exhibits identified below.

Ex. 1025—Copy of February 11, 2025 Deposition Transcript of Dr. Kirk W. Cameron

Patent Owner objects to Ex. 1025 as being inadmissible as incomplete and unfair under Fed. R. Evid. 106, and confusing and misleading under Fed. R. Evid. 403 because it does not contain Dr. Cameron's Errata Sheet and Acknowledgement. Patent Owner served a copy of Dr. Cameron's Errata Sheet and Acknowledgement on February 25, 2025 at or around 5:20 pm Eastern. Planet Depos, the court-reporter service that transcribed the deposition, served the same on February 26, 2025 at 11:55 am Eastern. Thus, Petitioner had both documents for more than a full day before its filing of Ex. 1025 on February 26, 2025 at 11:20 pm Eastern.

Ex. 1026—Re-Exam Office Action for Control No. 90/019,303

PO objects to Ex. 1026's admissibility as being belatedly presented without proper authorization by the Board in violation of 37 C.F.R. § 42.123(b).

Further, Petitioner relies on Ex. 1026 to counter Dr. Cameron's opinions but deprived him of an opportunity to evaluate and rebut Ex. 1026 because Petitioner introduced it over two weeks after Dr. Cameron's February 11, 2025 deposition, which is impermissibly late.

Patent Owner objects to Ex. 1026 as being inadmissible as incomplete and unfair under Fed. R. Evid. 106, and confusing and misleading under Fed. R. Evid. 403 because it reflects only a portion of the *ex parte* reexam record and takes the examiner's non-final office action from April 11, 2024 out of context.

Ex. 1027—Inspiron 1210 Quick Reference Guide (July 2008)

Patent Owner objects to Ex. 1027 as being inadmissible because it was filed belatedly without proper authorization under 37 C.F.R. § 42.123(b).

Patent Owner objects to Ex. 1027 for lack of foundation, including authentication under Fed. R. Evid. 901(a) because Petitioner has not "produced sufficient evidence to support a finding that the item is what the proponent claims it is[]" and because this is not a self-authenticating document. For example, Petitioner has failed to show that Ex. 1027 was ever publicized or that it was

publicly available before the '243 patent's earliest priority date. The copyright notice ©2008 is not sufficient to establish a publication date.

Patent Owner objects to this exhibit as hearsay under Fed. R. Evid. 801(c) and thus inadmissible under Fed. R. Evid. 802. For example, Petitioner relies on Ex. 1027 for the truth of the matter asserted therein. (Reply at 7.) Yet Petitioner has not offered sufficient evidence that Ex. 1027 falls within any exclusion or exception of the rule against hearsay under F.R.E. 803 or 804.

Patent Owner objects to this exhibit as being irrelevant under Fed. R. Evid. 401 and thus inadmissible under Fed. R. Evid. 402, or as being confusing or a waste of time under Fed. R. Evid. 403 because Ex. 1027 is inadmissible as explained above. Further, Ex. 1027 is irrelevant, confusing, and a waste of time because Petitioner failed to establish that it may be considered prior art published before the earliest priority date of the '243 patent, let alone relevant prior art.

Patent Owner's Objections
To Petitioner's New Evidence
IPR2024-00388

Dated: March 4, 2025

/Jason M. Shapiro/
Jason M. Shapiro
Registration No. 35,354
Nadiia Loizides (*pro hac vice*)
DEVLIN LAW FIRM LLC
1526 Gilpin Ave.
Wilmington, DE 19806
Tel: (302) 449-9010

Counsel for Patent Owner

CERTIFICATE OF SERVICE

The undersigned certifies that on March 4, 2025, pursuant to 37 C.F.R. § 42.6(e), a copy of **PATENT OWNER'S OBJECTION TO NEW EVIDENCE** was served via email (as consented to by counsel) to counsel of record for Petitioner as follows:

LEAD COUNSEL	BACKUP COUNSEL
Alexander B. Stein, Reg. No. 71,397 alexander.stein@morganlewis.com	Paul Margulies, Reg. No. 59,580 pmargulies@tesla.com
Additional email for service: Tesla-Graphite243-IPR@morganlewis.com	

/Jason M. Shapiro/
Jason M. Shapiro
Reg. No. 35,354